

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

NORTHERN DYNASTY MINERALS
LTD. and PEBBLE LIMITED
PARTNERSHIP,

Plaintiffs,

v.

U.S. ENVIRONMENTAL PROTECTION
AGENCY

Defendant.

Case No. 3:24-cv-00059-SLG

DECLARATION OF TARYN KIEKOW HEIMER

I, TARYN KIEKOW HEIMER, state and declare as follows:

1. I am the Director of Ocean Energy at the Natural Resources Defense Council (NRDC). I have worked at NRDC since 2008.

2. As Director of NRDC's Ocean Energy team, my duties include implementing strategic direction that has long-term significant effects on ocean energy and its impacts on marine ecosystems and climate health; leading substantive advocacy campaigns to combat fossil fuel development and advance responsible renewable energy; fundraising; managing a budget; and supervising and mentoring staff.

3. Since 2009, I have also led NRDC's campaign to stop the Pebble Mine and protect Alaska's Bristol Bay.

4. NRDC is a membership organization incorporated under the laws of the State of New York. It is recognized as a not-for-profit corporation under section 501(c)(3) of the U.S. Internal Revenue Code.

5. NRDC has hundreds of thousands of members nationwide. Records show that there are 1,345 members living in the State of Alaska.

6. NRDC's mission statement declares that NRDC's purpose is "to safeguard the Earth: its people, its plants and animals, and the natural systems on which all life depends." Part of NRDC's core mission is to preserve the earth's wild places and wildlife, to safeguard the integrity of undeveloped lands for future generations, and to prevent the destructive impacts of extractive industry exploration and development.

7. NRDC has a longstanding commitment to the protection of Alaska and Bristol Bay. Bristol Bay is a national treasure of unparalleled ecological and economic value. It is surrounded by two national parks (Katmai National Park and Preserve and Lake Clark National Park and Preserve), several national wildlife refuges (Togiak National Wildlife Refuge and Becharof National Wildlife Refuge), and the largest state park in the United States (Wood-Tikchik State Park). The Bristol Bay watershed provides habitat for more than twenty-nine fish species (all five species of Pacific salmon found in North America), forty terrestrial mammal species, and 190 bird species. Bristol Bay's fishery has sustained Indigenous peoples in Alaska for over 4,000 years, and the Yup'ik and Dena'ina are two of the last intact, salmon-based cultures in the world. Salmon are the lifeblood of Indigenous culture, providing not only food and subsistence-based livelihood, but also a foundation for their language, spirituality, and social structure. The Bristol Bay watershed also supports a commercial fishing industry worth \$2.2 billion annually; 15,000 jobs; an international sports destination for anglers across the globe; and record-breaking numbers of salmon that supply more than half of the world's sockeye. Despite overwhelming opposition by Bristol Bay residents, Alaska Native communities, Alaska voters, and millions of others in Alaska and elsewhere, the Pebble Limited Partnership ("PLP"), and its parent company Northern Dynasty Minerals, remain committed to building the Pebble Mine in the headwaters of Bristol Bay.

8. Since 2009, NRDC has pursued persistent administrative advocacy and litigation; carried out high-profile media and corporate campaigns that engaged the

public; and supported Tribal and local partners in their vision to permanently protect Bristol Bay from large-scale mining like Pebble Mine.

9. In 2010, federally-recognized Tribes in the Bristol Bay region petitioned the U.S. Environmental Protection Agency (“EPA”) to use its authority under Section 404(c) of the Clean Water Act to protect Bristol Bay from large-scale mining like the proposed Pebble Mine. Section 404(c) is a rarely used, but essential, tool that allows the EPA to prohibit, restrict, deny, or withdraw the use of an area as a disposal site for dredged or fill material "whenever" the agency determines the discharge will have unacceptable adverse effects on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational opportunities.

10. The Tribes’ request was followed by similar requests, including from the Bristol Bay Native Corporation (the largest development corporation and private land-owner in the Bristol Bay region), the Bristol Bay Native Association (a tribal consortium made up of 31 Tribes in Bristol Bay), United Tribes of Bristol Bay (a tribal consortium of 15 Tribes in Bristol Bay, representing more than 80 percent of the region’s population), commercial fishing interests, sportsmen’s groups, faith-based groups, business owners, and conservation organizations including NRDC. NRDC submitted a detailed legal brief in support of EPA’s use of Section 404(c) to protect the Bristol Bay watershed from large-scale mining like Pebble Mine.

11. In response, EPA conducted an extensive scientific assessment of the Bristol Bay watershed, undertaken to determine the potential impacts of large-scale

mining on salmon and other fish populations, wildlife, development, and Alaska Native communities in the region. EPA issued a draft Watershed Assessment in 2012 documenting the devastating impacts that large-scale mining of the Pebble deposit would have on the watershed and salmon. EPA issued a revised draft in 2013, taking into account public and peer review comments. In 2014, EPA issued its final Bristol Bay Watershed Assessment, which found that the large-scale mining would have significant adverse impacts on fish populations and streams surrounding the mine site—and that a tailings dam failure would have "catastrophic" effects on the region.

12. EPA's conclusions were the culmination of three years of data review, scientific analysis, public hearings, peer review, and revision. EPA subjected its assessment to virtually unprecedented public and scientific review and scrutiny to ensure that its review represented the best science regarding potential large-scale mining in the Bristol Bay watershed. In a process that far exceeded industry and academic standards of peer review, EPA's Watershed Assessment underwent two rounds of peer review during which 12 independent scientists reviewed and critiqued the scope and content of the assessment, offering suggestions which EPA then incorporated into its final assessment. Furthermore, two rounds of public comment generated over 1.1 million individual comments. During the first comment period, over 90 percent of the 233,000 comments received supported EPA's assessment. During the second comment period, over 650,000 people wrote to EPA explicitly supporting the Watershed Assessment and asking the agency to protect Bristol Bay with 73 percent of all comments, 84 percent of individual

comments from within Alaska and a staggering 98 percent of individual comments from within Bristol Bay supporting EPA action.

13. NRDC members and activists submitted more than 350,000 comments in support of EPA. NRDC also submitted detailed legal and scientific comments in support of every draft of EPA's Bristol Bay Watershed Assessment. In addition, NRDC's Science Center, whose mission is to expand NRDC's scientific capabilities and increase support for the role of science in public policy, and Environmental Entrepreneurs, a national community of business leaders affiliated with NRDC, submitted several letters in support of EPA.

14. NRDC and its members also fully supported EPA's 2014 Proposed Determination under Section 404(c), which would have placed restrictions on large-scale mining in the Bristol Bay Watershed. When EPA attempted to withdraw the Proposed Determination in 2017, NRDC and its members opposed the agency's efforts to reverse course. In 2017, EPA received more than one million comments—with 99 percent of the docket, including 115,000 comments from NRDC members and activists—in favor of keeping the Proposed Determination in place to protect Bristol Bay from large-scale mining. NRDC also submitted a detailed legal analysis of the arbitrary and capriciousness of EPA's proposed withdrawal.

15. NRDC applauded EPA's 2018 decision to keep the Proposed Determination in place. When EPA reversed that decision and withdrew the proposed determination in 2019, NRDC filed litigation to rescind the withdrawal.

16. After PLP filed a Clean Water Act section 404 permit application with the U.S. Army Corps of Engineers (“Army Corps”) for the Pebble Mine in 2017, NRDC and its members participated extensively in opposing that application, sending tens of thousands of public comments, submitting expert testimony, and filing several detailed legal briefs on the scope of review under the National Environmental Policy Act, Draft Environmental Impact Statement, and Clean Water Act permit application. In November 2020, the Army Corps denied PLP’s Clean Water Act permit application, concluding the proposed project did not comply with Clean Water Act guidelines and was contrary to the public interest.

17. In 2021, United Tribes of Bristol Bay and the Bristol Bay Native Corporation renewed their formal requests to EPA to re-initiate the section 404(c) process to prohibit or restrict large-scale mining in Bristol Bay. After the agency agreed to do so, NRDC and its members again joined the administrative process, submitting tens of thousands of public comments and filing detailed legal briefing first in support of EPA’s revised Proposed Determination and again in support of its Recommended Determination. During the public comment period, EPA received more than 500,000 comments supporting 404(c) protections for Bristol Bay, including 30,000 from Alaska and 2,500 from Bristol Bay. EPA also received support from 122 local, state, national, and international organizations, representing tens of millions of supporters, and 150 fishing, hunting, and outdoor recreation businesses and organizations, representing hundreds of thousands of sportsmen and outdoor enthusiasts.

18. In January 2023, thirteen years after the initial petitions for review under section 404(c) of the Clean Water Act were filed with the agency, EPA issued a Final Determination that prohibited and restricted large-scale mining of the Pebble deposit. Over the past decade, more than 4 million people submitted comments to EPA and the Army Corps supporting Clean Water Act protections for Bristol Bay and opposing the Pebble Mine.

19. Preventing damage to Bristol Bay's watershed and the fisheries and wildlife it supports is consistent with NRDC's longstanding efforts to foster sustainable ways of life and protect the natural systems and resources that support life on Earth.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 16th day of May 2024 in Rancho Palos Verdes, CA.



Taryn Kiekow Heimer